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MEMO ENDORSED

VIA ECF

Hon. Valerie E. Caproni
United States District Judge
United States District Court
40 Foley Square
New York, New York 10007

Re: *Patio Delivery, Inc., et al. v. Jaddou*, No. 22 Civ. 9536 (VEC)

Dear Judge Caproni:

This Office represents the government in the above-referenced action in which the plaintiffs seek review under the Administrative Procedure Act (“APA”) of a denial of their Petition for a Nonimmigrant Worker (Form I-129) by U.S. Citizenship and Immigration Services (“USCIS”). Having conferred with the plaintiffs’ counsel, the government respectfully requests that the Court stay this matter for sixty days because USCIS has vacated the prior agency denial that was challenged in this case and reopened the relevant Form I-129 petition pursuant to 8 C.F.R. § 103.5(a)(5)(ii). Upon reopening the petition, USCIS issued a Notice of Intent to Deny (“NOID”), which asks the plaintiffs to respond to the agency’s additional concerns. Plaintiffs are due to respond to the NOID in 33 days. The additional time requested should allow for USCIS to make a final agency determination in this matter. If USCIS approves plaintiffs’ petition, that will render this case moot. The plaintiffs consent to this request. Accordingly, the government respectfully requests that the Court stay this action until February 3, 2023.

Given these developments, the government respectfully submits that it is in the interest of efficiency and conservation of resources for this Court to stay this case for sixty days to allow this administrative process to progress. “The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). Here, because USCIS will be reviewing the past denial presented in this case along with supplemental evidence provided by the plaintiffs, and because the legal question presented in this litigation is related to the issues still pending before the agency, it would be prudent to hold this action in abeyance to avoid unnecessary motion practice and thus preserve judicial and party resources, particularly where the conclusion of USCIS’s review may result in a change to the agency’s adjudication of the plaintiffs’ petition, which could render this action moot. *Cf. Fareportal Inc. v. Travana, Inc.*, Nos. 16 Civ. 9882 (ALC), 17 Civ. 968 (ALC), 2017 WL 11512550, at *2 (S.D.N.Y. Sept. 25, 2017) (“The outcome of that expert’s analysis may eliminate Fareportal’s claims here, or at least significantly reduce the scope of the actions pending before this Court. Given this potential efficiency, the Court will stay this action under its inherent authority to manage its own docket in an efficient manner.”).

I thank the Court for its consideration of this letter.

Respectfully submitted,


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Application GRANTED. The case is hereby STAYED pending further administrative proceedings. Not later than **Monday, February 6, 2023**, the parties must file a joint status update. The conference scheduled for Friday, January 20, 2023 is hereby adjourned *sine die*.

SO ORDERED.

 12/08/2022

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE